

Whitney, Thompson & Jeffcoach LLP  
Mandy L. Jeffcoach, #232313  
[mjeffcoach@wtjlaw.com](mailto:mjeffcoach@wtjlaw.com)  
William H. Littlewood, #202877  
[blittlewood@wtjlaw.com](mailto:blittlewood@wtjlaw.com)  
Jaskarn S. Chahal, #348641  
[jchahal@wtjlaw.com](mailto:jchahal@wtjlaw.com)  
970 W. Alluvial Ave.  
Fresno, California 93711  
Telephone: (559) 753-2550  
Facsimile: (559) 753-2560

Attorneys for JESUS CHAVEZ, SR.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

YELLOWCAKE, INC., a California  
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No. 1:20-CV-00988-JLT-BAM

**JESUS CHAVEZ, SR.'S STATEMENT OF  
UNDISPUTED MATERIAL FACTS IN  
SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

Date: September 29, 2023

Time: 9:00 a.m.

Crtrm.: 4

The Hon. District Judge Jennifer L. Thurston

HYPHY MUSIC, INC.,

Cross-Complainant,

v.

YELLOWCAKE, INC.; COLONIZE MEDIA,  
INC.; JOSE DAVID HERNANDEZ; and  
JESUS CHAVEZ SR.,

Cross-Defendants.

Pursuant to Federal Rules of Civil Procedure 56 and Eastern District Local Rule, Rule 260,  
Counter-Defendant JESUS CHAVEZ SR. ("Chavez") submits the following Statement of  
Undisputed Material Facts in support of his Motion for Summary Judgment as to the eighth claim  
for relief set forth in Counterclaimant HYPHY MUSIC, INC.'s ("Counterclaimant") First Amended  
Counterclaim.

**I.**  
**SUMMARY JUDGMENT SHOULD BE GRANTED IN FAVOR OF CROSS-DEFENDANT**  
**AS CROSSCLAIMANT CANNOT SHOW THAT CHAVEZ BREACHED THEIR**  
**AGREEMENT**

<b><u>Moving Party's Undisputed Material Facts and Supporting Evidence</u></b>	<b><u>Opposing Party's Response and Evidence</u></b>
<p>1. Counterclaimant alleges that it entered into an oral exclusive recordings agreement (the "Oral Agreement") with Chavez in or about February 2013.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>Counterclaimant's First Amended Counterclaim ("FAC") ¶ 16, 78 attached as <b>Exhibit "B"</b> to the Statement of Evidence ("SOE"); Request for Judicial Notice ("RJN") at ¶ 1 attached as <b>Exhibit "C"</b> to the SOE.</p>	1.
<p>2. Counterclaimant alleges that the Oral Agreement was for a period of five (5) years pursuant to which Chavez was to exclusively provide services as a recording artist in the making of sound and audio-visual recordings with respect to the Los Originales Albums.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>FAC ¶ 16, 78 attached as <b>Exhibit "B"</b> to the SOE; RJN at ¶ 1 attached as <b>Exhibit "C"</b> to the SOE.</p>	2.
<p>3. Counterclaimant alleges that, in consideration for the services provided and payment thereto, Chavez agreed that Counterclaimant would be the owner of all title, right, and interest in and to the Los Originales Albums (including without limitation the copyrights and any extensions and renewals thereto) from the inception of the creation of each Los Originales Album.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>FAC ¶ 16, 78 attached as <b>Exhibit "B"</b> to the SOE; RJN at ¶ 1 attached as <b>Exhibit "C"</b> to the SOE.</p>	3.

<b><u>Moving Party's Undisputed Material Facts and Supporting Evidence</u></b>	<b><u>Opposing Party's Response and Evidence</u></b>
<p>4. Counterclaimant alleges that, in or about April 2019, Chavez breached the Oral Agreement by without limitation, purportedly transferring, licensing, selling, and/or authorizing Counter-defendants Yellowcake, Inc. and Colonize Media, Inc. to exploit the Los Originales Albums and Cover Art.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>FAC ¶ 79 attached as <b>Exhibit "B"</b> to the SOE; RJN at ¶ 1 attached as <b>Exhibit "C"</b> to the SOE.</p>	<p>4.</p>
<p>5. Counterclaimant alleges that, at the time of the transfer to Yellowcake, Chavez possessed no transferable rights with respect to the Los Originales Albums.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>FAC ¶ 23 attached as <b>Exhibit "B"</b> to the SOE; RJN at ¶ 1 attached as <b>Exhibit "C"</b> to the SOE.</p>	<p>5.</p>
<p>6. Counterclaimant admits that Chavez was not an employee of Counterclaimant.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>Deposition Transcript of Jose Martinez ("Martinez Dep.") at pp. 39:18-20 attached as <b>Exhibit "E"</b> to the SOE; Declaration of William H. Littlewood ("Littlewood Decl.") at ¶ 3 attached as <b>Exhibit "D"</b> to the SOE. Counterclaimant's Responses to Counter-Defendants' First Set of Interrogatories, Response to Interrogatory ("SROG Response") No. 11 attached as <b>Exhibit "F"</b> to the SOE; Littlewood Decl. at ¶ 4 attached as <b>Exhibit "D"</b> to the SOE. Counterclaimant's Responses to Counter-Defendants' First Set of Requests for Production of Documents ("RPD Response") Nos. 23-24 attached as <b>Exhibit "G"</b> to the SOE; Littlewood Decl. at ¶ 5 attached as <b>Exhibit "D"</b> to the SOE.</p>	<p>6.</p>

<u><b>Moving Party's Undisputed Material Facts and Supporting Evidence</b></u>	<u><b>Opposing Party's Response and Evidence</b></u>
<p>7. Counterclaimant admits that none of the Los Originales band members were employees of Counterclaimant.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>Martinez Dep. at pp. 39:21-23 attached as <b>Exhibit "E"</b> to the SOE; Littlewood Decl. at ¶ 3 attached as <b>Exhibit "D"</b> to the SOE.</p>	7.
<p>8. There is no written agreement between Counterclaimant and Chavez substantiating an alleged work for hire relationship between the parties.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>RPD Response Nos. 23-24 attached as <b>Exhibit "G"</b> to the SOE; Littlewood Decl. at ¶ 5 attached as <b>Exhibit "D"</b> to the SOE.</p>	8.
<p>9. There is no written agreement between Counterclaimant and Chavez whereby Chavez agreed that Counterclaimant would be the owner of all title, right, and interest in the Los Originales Albums.</p> <p><b><u>Supporting Evidence:</u></b></p> <p>Martinez Dep. at pp. 39:25-40:24; 125:19-126:11 attached as <b>Exhibit "E"</b> to the SOE; Littlewood Decl. at ¶ 3 attached as <b>Exhibit "D"</b> to the SOE. RPD Response Nos. 23-24 attached as <b>Exhibit "G"</b> to the SOE; Littlewood Decl. at ¶ 5 attached as <b>Exhibit "D"</b> to the SOE.</p>	9.

Dated: July 14, 2023

WHITNEY, THOMPSON &amp; JEFFCOACH LLP

By: 

Mandy L. Jeffcoach

William H. Littlewood

Jaskarn S. Chahal

Attorneys for JESUS CHAVEZ, SR.